

Introduced By: Pete von Reichbauer

Proposed No.: 1999-0673

ORDINANCE NO. _____

AN ORDINANCE establishing policies and standards for the use and occupancy of public right-of-way by telecommunications facilities; establishing franchise requirements for telecommunications providers placing telecommunications facilities in public right-of-way; and establishing minimum charges, terms, and conditions for and upon the construction, installation, maintenance, and repair of such facilities; amending King County code by adding a new chapter to the King County code; amending ordinance 11790, section 2, as amended, and K.C.C. 6.27.020; amending ordinance 12486, section 1, as amended, and K.C.C. 14.44.020; ordinance 11790 section 1, as amended, and K.C.C. 14.44.055; ordinance 12020, section 48, as amended, and K.C.C. 14.44.080; ordinance 1711, section 10, as amended, and K.C.C. 14.44.100; ordinance 2910, section 5, as amended, K.C.C. 14.44.110.

BE IT ORDAINED BY THE COUNCIL OF KING COUNTY:

SECTION 1. Findings. The Metropolitan King County council makes the following findings.

A. The King County executive signed into law ordinance 13129 which established land use policies regulating the siting of minor communication facilities. Ordinance 13129 encourages location of telecommunications towers in non-residential areas, joint use of new and existing telecommunications tower sites and tower and antenna siting in areas where the adverse impact on the community is minimal.

B. Telecommunication providers have requested access to and use of county right-of-way for facilities for provision of telecommunications services.

28 C. County right-of-way may be used and occupied by telecommunications
29 providers for facilities for the delivery, conveyance, and transmission of
30 telecommunications, for the enhancement of the health, welfare, and general economic
31 well-being of the county and its citizens.

32 D. New technology and competition fosters intensive use and occupancy of county
33 right-of-way by multiple users. Intensive use and occupancy of county right-of-way
34 requires coordination and management to ensure orderly planning, entry, construction,
35 repair, maintenance, coordination and acquisition of county right-of-way, as well as
36 mechanisms to protect and assure the public health, safety and welfare, reliable delivery of
37 essential county services.

38 E. The privilege to place telecommunications facilities and fixtures in county
39 right-of-way is a valuable economic benefit that is available through the use of property
40 rights held by the county. County right-of-way is a unique public resource acquired and
41 maintained at substantial expense to the county and its taxpayers.

42 F. King County has the authority under federal, state and local laws to acquire,
43 construct, maintain, abandon and regulate the use and occupancy of streets, right-of-way,
44 and other county property, to grant access thereto upon certain terms and conditions; and to
45 obtain compensation for the use of county right-of-way.

46 G. Article XII § 19 of the Constitution of the State of Washington provides in
47 relevant part: "Any association or corporation, or the lessees or managers thereof,
48 organized for the purpose, or any individual, shall have the right to construct and maintain
49 lines of telegraph and telephone within this state,. . ."

50 H. King County has the authority to require franchises for use of its right-of-way
51 pursuant to RCW 36.55.010.

52 SECTION 2. Purpose. The purposes of this ordinance are to: (1) protect the
53 public health, safety and welfare; (2) establish policies and standards for the use and
54 occupancy of county right-of-way by telecommunications providers; (3) conserve the
55 limited physical capacity of the county right-of-way; (4) ensure consistency of use of
56 county right-of-way by telecommunications facilities with the county's comprehensive
57 plan; (5) ensure that sound engineering and design standards are used to protect against
58 damage to the county right-of-way or threats to the public health, safety and welfare; (6)
59 ensure that the public in general, other users of the county right-of-way, and the county is
60 indemnified, held harmless and defended from activities by telecommunications providers
61 using the county right-of-way; (7) regulate the use of the county right-of-way in a manner
62 that does not intrude on regulation of telecommunications business activities which are not
63 related to the use of county right-of-way; (8) obtain fair and reasonable compensation for
64 use of the county right-of-way; and (9) retain the county's regulatory and police power
65 authorities to the maximum extent permitted by law.

66 SECTION 3. Exceptions.

67 A. This ordinance does not apply under the following conditions:

68 1. For the provision of cable service, or to a cable operator as defined in 47
69 USC §522(5), to the extent such operator is providing cable service as defined in K.C.C.
70 6.27A.010, and has a franchise granted under K.C.C. 6.27A.

71 2. Section 6, Paragraphs 6.A.2 and 6.A.5 and Section 14, Paragraph C of this
72 ordinance shall not apply to telephone or telegraph lines constructed and maintained by a

telecommunications company that constructed or maintained telephone or telegraph lines along and upon any public road, street or highway in the State of Washington prior to March 28, 1890.

3. To King County.

B. These exceptions shall be interpreted narrowly. A telecommunication provider engaged in one type of telecommunications service and subject to an exception as described in this section shall not be excepted from the requirements of this ordinance for its other telecommunications services.

SECTION 4. Definitions.

A. "Applicant" is any person or entity that applies for any county authorization, franchise, or permit to place telecommunications facilities in county right-of-way.

B. "Franchise" is, for the purposes of this ordinance, the grant of a revocable right to use county right-of-way for telecommunications facilities subject to site specific approval through the permit process.

C. "Franchise agreement" is an agreement entered into between the county and a telecommunications provider that sets forth the terms and conditions under which a franchise granted by the county permitting use of the county right-of-way will be exercised.

D. "Franchise fee" is an annual fee charged to franchisees as compensation for the revocable right to use county right-of-way conveyed by a franchise. The annual franchise fee is in addition to costs and expenses of the county for processing, managing and inspecting compliance with permit applications, and costs and expenses of the provider or

96 the county in complying with county rules and regulations regarding management, repair,
97 restoration and security requirements.

98 E. "Minibase" is a wireless data mini base transceiver used for two way paging
99 receive cells, 38 Ghz wireless facilities, 1 to 3 meter diameter satellite transceiver dishes
100 (VSAT) and analog SMR (as defined by the Federal Communications Commission)
101 transmitters.

102 F. "Monopole" is a new self-supported pole added to the right-of-way for the
103 purpose of supporting telecommunication equipment, but does not include a new pole
104 which replaces an existing pole.

105 G. "Replacement utility pole" is a utility pole replacing an existing utility pole in
106 the county right-of-way with no increase in the total number of utility poles in the right-of-
107 way. Replacement poles provide extra capacity to support attached telecommunications
108 facilities.

109 H. "Right-of-way" is land, property or property interest, such as an easement,
110 usually in a strip, as well as bridges, trestles, or other structures, dedicated to, or otherwise
111 acquired by the county for public motor vehicle transportation purposes, including, but not
112 limited to, roads, streets, avenues, , and alleys, whether or not opened, improved or
113 maintained for public motor vehicle transportation purposes.

114 I. "Rural Areas" is county designated rural or resource lands.

115 J. "Telecommunications" is the transmission in electrical or optical format on a
116 closed or open transmission pathway, between or among points specified by the user, of
117 information of the user's choosing, without change in the form or content of the
118 information as sent and received.

119 K. "Telecommunications facility" is the capital, equipment and property,
120 including but not limited to the poles, pipes, mains, conduits, ducts, pedestals, electronic
121 equipment, cables, and wires within the right-of-way used for the purpose of transmitting,
122 receiving, distributing, providing, or offering telecommunications.

123 L. "Telecommunications provider" is every person that directly or indirectly owns,
124 controls, operates or manages a telecommunication facility within the county right-of-way,
125 used or to be used or planned to be used for the purpose of offering telecommunications.

126 M. "Telecommunications services" is the transmission for hire of information in
127 electronic or optical form, including, but not limited to, voice, video, or data.

128 N. "Urban growth area" is county designated urban growth area as provided in the
129 King County comprehensive plan.

130 O. "Wireless" means transmissions to connect networks through the airwaves
131 including, but not limited to, infrared line of sight, cellular, microwave, or satellite.

132 P. "Wireline" means transmissions to connect networks through physical
133 connections including, but not limited to, copper, cable or fiber optics.

134 SECTION 5. Policies.

135 A. Stewardship. The county has an obligation to manage the county right-of-way
136 as a trustee for the public. The county shall manage the county right-of-way in a manner
137 recognizing the economic value of the publicly owned asset and protecting the health,
138 safety and welfare of the public.

139 B. Provision of telecommunications services. King County seeks to promote the
140 availability of high-quality and diverse telecommunications services to county residents,
141 businesses, the county, and other public institutions. It is county policy to encourage

142 competition and neither to promote nor to hinder one telecommunication technology,
143 industry group or company over others.

144 C. Franchises. It is county policy to require owners of telecommunications
145 facilities covered by this ordinance to obtain a franchise in order to protect county
146 right-of-way throughout the county, provide for county management over the
147 placement of telecommunications facilities in the county right-of-way, and to
148 ensure that similarly situated telecommunications providers are comparably treated.

149 D. Franchise standards. It is in the interest of the county and the public to
150 franchise and to establish standards for franchising telecommunications providers in a
151 manner which: (1) compensates the county for the value of the use of the county right-of-
152 way by telecommunications providers; (2) reimburses the County for ongoing costs
153 associated with those uses of the county right-of-way; (3) encourages competition by
154 establishing common terms and conditions under which telecommunications providers
155 may use valuable public property to serve the public; (4) fully protects the public and the
156 county from any harm that may flow from such private use of county right-of-way; (5)
157 protects and carries out the regulatory authority of the county over activities in the county
158 right-of-way, while recovering regulatory costs; (6) allows the county to exercise its
159 stewardship responsibilities with regard to county right-of-way in a manner consistent with
160 existing laws; and (7) otherwise protects the public interests in the development and use of
161 the county right-of-way infrastructure and in preserving and improving the aesthetics of the
162 community.

163 E. Use of regulatory authority. It is the policy of the County in this ordinance to
164 exercise its regulatory authority; to require compliance with all applicable codes and

standards; to minimize disruption to existing and future public services relying on telecommunications facilities in the county right-of-way, including, but not limited to county 800 MHz radio communications; to ensure public safety; to ensure compatibility with the King County Comprehensive plan and the provision of other infrastructure in the county right-of-way; and for the receipt of fair and reasonable compensation for use of county right-of-way.

SECTION 6. Grant of authority.

A. Franchise and permits required for use of the county right-of-way.

1. A franchise grants a telecommunications provider a revocable right to use the county right-of-way as defined in Section 4 of this ordinance to construct, install, operate, reconstruct, repair and maintain telecommunications facilities.

2. No telecommunications provider shall construct, install, operate, reconstruct, repair or maintain telecommunications facilities in the county right-of-way without a franchise granted by the county and a franchise agreement executed with the county.

3. All telecommunications providers, whether or not franchised by County shall comply with the King County Regulations for Accommodations of Utilities on county Road Rights-of-Way adopted by K.C.C. 14.44.060.

4. A telecommunications provider shall obtain any permits and pay any permit fees required by the county for use of the county right-of-way. Such permits shall be obtained by and issued to a telecommunications provider prior to any construction,

186 installation, operation, reconstruction, repair or maintenance activity on any county right-
187 of-way.

188 5. A telecommunications Provider must pay to the county annually a franchise
189 fee as defined in Section 4 of this ordinance and prescribed in section 8 of this ordinance.

190 6. A telecommunications provider is at all times subject to and must comply
191 with all generally applicable federal, state and local laws, ordinances, codes, rules,
192 regulations and orders. A telecommunications provider shall at all times be subject to the
193 exercise of the police power of the county. No grant of a franchise may exempt a
194 telecommunications provider from the future exercise and implementation of the county's
195 power to protect the public health, safety and welfare.

196 SECTION 7. Franchises to use the county right-of-way.

197 A. The county may grant one or more franchises to telecommunications providers
198 to use county right-of-way. Any new franchise, renewal, transfer or modification shall be
199 granted by ordinance and shall be for a term not to exceed fifteen (15) years from the
200 effective date of the franchise. Separate franchises shall be required for wireless
201 telecommunications facilities or wireline telecommunication facilities, as well as the
202 addition of either wireless telecommunication facilities or wireline telecommunications
203 facilities to an existing cable franchise granted pursuant to K.C.C.6.27A.

204 B. Any franchise granted shall be nonexclusive, and does not expressly or
205 implicitly preclude the issuance of other franchises, or affect the county's right to use or
206 authorize the use of its right-of-way to other persons or entities as it determines
207 appropriate.

208 C. Any franchise may grant a right to use all or less than all of the county's right-
209 of-way under such terms and conditions as specified in the particular franchise agreement.

210 D. The terms, conditions and provisions of a fully executed franchise agreement,
211 together with all applicable laws, ordinances, codes, rules, regulations and orders, enacted
212 now or in the future, shall define the rights and obligations of the franchisee and the county
213 relating to the franchise.

214 E. The county may modify the obligations of franchisees during the term of a
215 franchise through the exercise of the county's police powers. The terms of the franchise
216 agreement may be amended as follows:

- 217 1. at the time of renewal, transfer, or other disposition;
- 218 2. when the franchise agreement is inconsistent with governing laws, statutes
219 or decisional law.

220 F. Except as expressly provided to the contrary, all costs incurred by an applicant
221 or franchisee in complying with this ordinance, a franchise, applicable law, or any action
222 thereunder shall be the sole responsibility of the applicant or franchisee and shall not be
223 charged to the county.

224 G. The notice requirements contained in RCW 36.55.040 shall apply to this
225 section.

226 SECTION 8. Franchise fees. The following annual franchise fees shall apply to
227 telecommunications franchises.

228 A. Annual fees for wireless telecommunications facilities The following fees
229 shall be charged on an annual per site basis for wireless telecommunications

facilities. Fees shall be escalated for inflation based on the formula described in subsection D. of this section.

Annual Fees for Wireless Facilities			
Type of Equipment/Facility	Category 1	Category 2	Category 3
Antenna/receiver transmitter and equipment cabinet	\$10,000	\$7,000	\$6,000
Antenna or equipment cabinet but not both	\$7,000	\$6,000	\$5,000
Minibase – Receiving Only	N/A	N/A	\$3,600
Minibase – Transmitting Only	N/A	N/A	\$3,600
Others not in Categories Above	As negotiated	As negotiated	As negotiated

1. Category 1 - Wireless equipment and facilities – This category includes all facilities except facilities that qualify as category 2 or 3 facilities including, but not limited to, antennas or equipment cabinets with concrete pad space required for the foundation of equipment cabinets, monopoles or towers.

2. Category 2 – Replacement utility pole not requiring DDES construction permit – This category includes facilities which do not require DDES construction permits including, but not limited to, replacement utility poles.

3. Category 3 – Placement on existing poles: This category includes the placement of minibases on existing utility poles, existing replacement utility poles or existing monopoles.

244 B. Base annual fee for underground conduits. Fees for underground and above
245 ground telecommunications conduit shall be based on a per linear foot fee for each conduit
246 in the right-of-way. The following formula shall be used for calculating fees: Cross-
247 sectional area of conduit divided by the cross-sectional area of a two-inch (2") conduit
248 (0.390625.) times the fees for two-inch (2") conduit. The table below shows the fees for a
249 two-inch (2") conduit as well as other common conduit sizes. Fees vary depending on the
250 land use designation of the site. Calculations for the area of a conduit are based on the
251 nominal size of the conduit. Fees shall be escalated for inflation based on the formula
252 described in subsection D. of this section.

Annual Per Linear Foot Fees for Wireline Telecommunication Facilities in King County Right-of-Way			
Type of Facility	Category 1 Urban	Category 2 Rural	Category 3 Forest Production District
Underground Conduit:			
1.25 inch conduit	\$0.13 per linear foot	\$0.07 per linear foot	\$0.03 per linear foot
2 inch conduit	\$0.34 per linear foot	\$0.17 per linear foot	\$0.09 per linear foot
3 inch conduit	\$0.77 per linear foot	\$0.38 per linear foot	\$0.19 per linear foot
4 inch conduit	\$1.36 per linear foot	\$0.68 per linear foot	\$0.34 per linear foot
5 inch conduit	\$2.13 per linear foot	\$1.06 per linear foot	\$.53 per linear foot

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1. Category 1: Urban – Wire, cable or lines located in the urban growth area as identified in the King County comprehensive plan.

2. Category 2: Rural – Wire, cable or lines located in areas designated rural in the King County comprehensive plan.

3. Category 3: Forest production district – Wire, cable and lines located in the Forest Production District as designated in the King County comprehensive plan.

C. Fees for direct buried underground cables and wires, and above ground cables wires. Fees for direct buried underground cables and wires not enclosed by conduit, and above ground cables and wires shall be as negotiated, but not more than linear foot fees charged for conduit.

265 D. Escalation of fees. All fees prescribed under the authority of this ordinance
266 shall be automatically escalated annually, beginning January 1, 2001 and every year
267 thereafter, for the change in the U.S. Department of Labor, Bureau of Labor Statistics
268 Consumer Price Index for All Urban Consumers ("CPI-U") for the Seattle-Tacoma-
269 Bremerton Statistical Metropolitan Area for the preceding calendar year. In the event the
270 CPI-U (or a successor or substitute index) is no longer published, a reliable government or
271 other non-partisan index of inflation selected by the county shall be used to calculate the
272 adjusted amounts.

273 E. Annual payment of fees. Fees shall be paid to the county on an annual basis.
274 Fees are due at permit issuance, prorated to the end of the year, and the first of January
275 every year thereafter.

276 F. Compensation in lieu of fees. The county may negotiate the provision of
277 telecommunication facilities in lieu of annual fees. In-kind compensation in lieu of fees
278 shall be credited on a marginal cost basis against any fee compensation required of a
279 telecommunication provider. The use of in-kind compensation shall be for public agency
280 use only.

281 G. Compensation for use of the county Right of Way shall be determined in such a
282 manner so that a telecommunications provider with more than one county franchise is not
283 charged more than once for multiple uses of the same telecommunications lines in the
284 county Right of Way.

285 SECTION 9. Applications for franchise, renewals, modifications or transfers.

286 A. All applications for the following must be filed in writing with the office of
287 cable communications:

- 288 1. grant of a new franchise;
- 289 2. renewal of a franchise;
- 290 3. modification of a franchise agreement; or
- 291 4. transfer of a franchise agreement

292 B. Effective January 1, 2000, an applicant requesting a new franchise, amended
293 franchise, renewal, extension for an existing franchise or transfer shall pay a franchise
294 application fee of five thousand dollars (\$5,000.00) as reimbursement to King County for
295 the administrative costs and expenses incurred in the processing of the franchise
296 application. The franchise application fee is payable at the time the application is filed
297 with the office of cable communications. In addition, each applicant shall pay the full
298 advertising costs associated with the application. Franchise application and advertising
299 fees are not refundable, even if the application is not approved.

300 C. All franchise applicants shall submit the following information:

- 301 1. A one (1) year construction and route plan submitted by the applicant which
302 shall include information about (a) the qualifications of the applicant to construct and
303 maintain telecommunications facilities in the county right-of-way consistent with the
304 public health, safety and welfare or a Certificate of Approval to Provide
305 Telecommunications Services in the State of Washington; (b) the characteristics, co-
306 location and location of the proposed placement of telecommunications facilities in the
307 county right-of-way; (c) the nature of the proposed telecommunications facilities; (d) the
308 capability of the county right-of-way to accommodate the proposed telecommunications
309 facilities; (e) the potential disruption to existing users of the county's right-of-way and the
310 applicant's plan to mitigate the inconvenience to the public caused by the construction or

operation of the proposed telecommunications facilities. All one (1) year plans are subject to the State of Washington Public Disclosure Law, RCW 42.17.

2. An applicant for a transfer of a franchise shall in addition to the one (1) year plan described above include a statement from the proposed transferee agreeing to comply with the transferor's franchise agreement, this ordinance and other applicable laws.

3. All applicants shall certify compliance with all requirements of this ordinance and applicable laws, including but not limited to the county comprehensive plan; the King County Regulations for Accommodations of Utilities on county Road Rights-of-Way as described in K.C.C 14.44.060 and the King County Road Standards as described in K.C.C. 14.42.010 A and shall provide such other information related to the applicant's proposed or current use of the county right-of-way as the county may from time-to-time require.

D. In evaluating all franchise applications whether for a new franchise, a transfer, the renewal or a modification of a franchise, the county may consider, among other things, the following factors as described in an applicant's one (1) year plan: the nature of the proposed telecommunication facilities; the capability of the county right-of-way to accommodate the proposed telecommunications facilities; the potential disruption to existing users of the county's right-of-way and the resulting inconvenience to the public caused by the construction or operation of the proposed telecommunications facilities.

SECTION 10. Technical standards. A franchisee providing telecommunications services to the public by utilizing county right-of-way for telecommunications facilities shall comply with all applicable technical standards including but not limited to the compliance with the National Television System Committee, Washington Utilities and

334 Transportation Commission and other agencies or departments with the authority to adopt
335 regulations and standards. In addition, the telecommunications provider shall comply with
336 the King County Code as well as with all applicable county road standards and/or other
337 applicable standards set either now or in the future by and through the county departments
338 or agencies responsible for standards authorizing the placement, construction, installation
339 or maintenance of telecommunications facilities on county right-of-way.

340 SECTION 11. Insurance requirements.

341 A. For any franchise agreement entered into after the effective date of this
342 ordinance, a franchisee must carry commercial general liability, automobile liability and
343 stop gap or employers liability coverage, each in minimum limits of not less than one
344 million dollars (\$1,000,000), in an amount approved by the King County office of risk
345 management. All policies must name King County as an additional named insured.

346 B. All policies shall be placed with insurers having a Bests' rating of no less than
347 A:VIII or, if not rated by Bests, with surpluses equivalent to or greater than Bests' A:VIII
348 rating. A franchisee shall send copies of certificates, endorsements or other adequate
349 evidence of compliance with this section to the office of cable communication prior to the
350 county's execution of the franchise agreement.

351 SECTION 12. Liquidated damages. All franchise agreements involving
352 construction in the county right of way entered into after the effective date of this
353 ordinance may provide for liquidated damages to compensate the county for harm caused
354 by a material violation of a franchise agreement, in an amount which is a reasonable
355 forecast of just compensation for the harm caused by the violation.

356 SECTION 13. Liability and indemnification.

357 A. All franchise agreements shall contain the following provision: a franchisee
358 shall have no recourse whatsoever against the county or its officials, boards, commissions,
359 agents, or employees for any loss, costs, expenses, or damages arising out of any provision
360 or requirement of the franchise, franchise agreement, or this ordinance because of the
361 enforcement of the franchise, franchise agreement, or this ordinance except if such loss,
362 costs, expenses or damages are the result of the sole negligence or misconduct on the part
363 of the county or its agents.

364 B. All franchise agreements shall contain the following provision: to the extent
365 permitted by law, a franchisee shall, at its sole cost and expense, indemnify, hold harmless,
366 and defend the county and its officers, boards, commissions, agents and employees, against
367 any and all claims, including but not limited to third-party claims, suits, causes of action,
368 proceedings and judgments for damages or equitable relief arising out of the construction,
369 repair, maintenance or operation of its cable system, or in any way arising out of the
370 franchisee's enjoyment or exercise of a franchise granted pursuant, or otherwise subject, to
371 this ordinance, regardless of whether the act or omission complained of is authorized,
372 allowed or prohibited by this ordinance or a franchise agreement. This provision includes,
373 but is not limited to expenses for reasonable legal fees and for disbursements and liabilities
374 assumed by the county as follows:

375 1. To persons or property, in any way arising out of or through the acts or
376 omissions of the franchisee, its officers, employees, or agents or to which the franchisee's
377 negligence shall in any way contribute;

378 2. Arising out of a franchisee's failure to comply with the provisions of any
379 federal, state or local statute, ordinance, rule, or regulation applicable to the franchisee.

380 C. The county shall give the franchise timely written notice of the making of any
381 claim or the commencement of any action, suit or other proceeding covered by this
382 ordinance. In the event any such claim arises, the county or any other indemnified party
383 shall tender the defense thereof to the franchisee and the franchisee shall have the right to
384 defend, settle, or compromise any claims arising hereunder and the county shall cooperate
385 fully therein.

386 SECTION 14. New telecommunications franchises, renewal of existing
387 telecommunications franchises, and renewal of right-of-way permits with franchise terms
388 and conditions.

389 A. New telecommunication franchises. This ordinance shall guide the negotiation
390 of future telecommunication franchises.. All new telecommunications franchises
391 submitted to the King County council for approval shall be consistent with the policies and
392 provisions set forth in this ordinance.

393 B. Renewal of existing telecommunication franchises. Where permitted, all
394 existing telecommunication franchises shall be renewed to reflect the policies and
395 provisions set forth in this ordinance.

396 C. Renewal of right-of-way permits with franchise terms and conditions. All
397 right-of-way permits with telecommunication terms and conditions shall be renewed as
398 franchises consistent with the policies and provisions of this ordinance. The fees described
399 in this ordinance, shall be applied retroactively to the date permit fees are in effect. Where
400 appropriate a credit shall be given for any overpayment of fees.

401 SECTION 15. K.C.C. 6.27.020 and ordinance 11790 § 2 are hereby amended to
402 read as follows:

Franchises required. Persons or private or municipal corporations are required, in accordance with RCW 36.55.010, to obtain a franchise approved by the King County council in order to use the county right-of-way for the construction and maintenance of waterworks, gas pipes, ~~((telephone, telegraph,))~~ and electric lines, sewers, ~~((cable TV))~~ and petroleum products and any other such public and private utilities. Telecommunications providers, as defined in ordinance No. _____, shall obtain franchises consistent with RCW 36.55.010 according to the requirements set forth in the King County code as the codification of ordinance No. _____ Cable operators as defined in 47 USC § 522(5) shall obtain franchises consistent with RCW 36.55.010 according to the requirements of K.C.C. 6.27A et seq. This requirement may be waived for the purpose of issuing emergency right-of-way construction permits as provided in K.C.C 14.44.055.

SECTION 16. K.C.C. 14.44.020 and ordinance 12486 § 1 are hereby amended to read as follows:

Construction permit - Required. All construction work performed by ~~((franchised))~~ utilities, ~~((telephone and telegraph companies and))~~ or by contractors on behalf of utilities, whether or not the utility holds a franchise from King County, within King County right-of-way shall require a right-of-way construction permit to be issued by the property services division of the department of construction and facility management; provided, that construction work undertaken by King County or under contract to King County or requested by King County due to new construction shall be exempted from this requirement. Construction work shall include, without limitation, the construction and maintenance of waterlines, gas pipes, sewer lines, petroleum pipelines, telephone, telegraph and electric lines, ~~((cable TV and petroleum products))~~ cable TV lines and

426 facilities, other telecommunications lines and facilities, and any other such lines, facilities
427 and appurtenances located within the King County right of way ((and any other such public
428 and private utilities)).

429 B. The department of transportation and all other county departments during the
430 construction of capital improvement projects shall install vacant conduit reserved for the
431 future installation of fiber optic cable in accordance with the county's I-Net and Wide Area
432 Network Plans; all capital improvement projects not requiring trenching or modification to
433 the subgrade, such as overlays and shoulder widening, shall be exempted from this
434 requirement.

435 SECTION 17. K.C.C. 14.44.055 and ordinance 11790 § 1 are hereby amended
436 to read as follows:

437 Emergency construction permits - Unfranchised utilities.

438 A. The property services division may issue emergency right-of-way construction
439 permits to unfranchised utilities under the following circumstances:

440 1. When the Seattle-King County department of public health has determined
441 that the proposed work is necessary to address a public health hazard; or

442 2. When the roads services division, department of ((public works))
443 transportation has determined that the proposed work is necessary to address actual or
444 imminent damage to county right-of-way or to address hazards to users of county right-of-
445 way.

446 B. No right-of-way construction permit for sewer or water facility construction
447 shall be issued unless the property services division receives a determination from the chair
448 of the utilities technical review committee that the proposed work is consistent with the

King County Comprehensive Plan codified in K.C.C. Title 20 and with K.C.C. 13.24.132, 13.24.134, 13.24.138 and 13.24.140.

C. The permit applicant shall be required to meet all conditions of this chapter, except K.C.C. 14.44.050A and C.

SECTION 18. K.C.C. 14.44.080 and ordinance 12020 § 48 are hereby amended to read as follows:

Performance guarantee required. Prior to final approval of all right-of-way construction permits, the department of ~~((public works))~~ transportation, road services division shall determine the amount of the performance guarantee necessary to assure compliance with the approved construction plans, applicable state and local health and sanitation regulations, county standards for water mains and fire hydrants and to assure proper restoration of the road and the health and safety of the users of the road. The applicant shall submit the financial guarantee consistent with the provisions of Title 27A.

SECTION 19. K.C.C. 14.44.100 and Ordinance 1711 § 10 are hereby amended to read as follows:

Notification by permittee of construction commenced. The permittee is required to give oral or written notice of the date construction will begin to the following agencies: department of ~~((public works))~~ transportation, road services division for all right-of-way construction; Seattle-King County department of public health for construction of waterworks (except for domestic service connections); King County fire marshal for waterworks. Failure to give such notice is grounds for the revocation or suspension of the construction permit.

471 SECTION 20. K.C.C. 14.44.110 and ordinance 2910 § 5 are hereby amended to
472 read as follows:

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474 Enforcement. The director of the department of ((~~public works~~)) transportation
475 and the director of the Seattle-King County department of public health are authorized to
476 enforce the provisions of this chapter, the ordinances codified in it, and any rules and
477 regulations adopted hereunder pursuant to the enforcement and penalty provisions of
478 K.C.C. Title 23.

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SECTION 21. Severability. If any provision of this ordinance or its application to any person or circumstance is declared unconstitutional or invalid for any reason, such decision shall not affect the validity of the remaining portions of this ordinance.

INTRODUCED AND READ for the first time this 6th day of December, 1999.

PASSED by a vote of ___ to ___ this _____ day of _____, 19__.

KING COUNTY COUNCIL
KING COUNTY, WASHINGTON

Chair

ATTEST:

Clerk of the Council

APPROVED this _____ day of _____, 19__.

King County Executive

Attachments: None